

Bruce T. Beesley



Honorable Bruce T. Beesley
United States Bankruptcy Judge

Entered on Docket
February 07, 2013

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UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEVADA

In re:)	Case No. 12-10340-BTB
)	
Gary S. Kibizoff,)	Chapter 11
)	
Debtor.)	Hearing Date: February 5, 2013
)	Hearing Time: 1:30 p.m.

**ORDER GRANTING MOTION TO VALUE COLLATERAL, "STRIP OFF"
AND MODIFY RIGHTS OF SECURED CREDITORS PURSUANT TO 11
U.S.C. § 506(a) AND § 1123 FOR THE REAL PROPERTY LOCATED
AT 317 HARRIET STREET, SAN FRANCISCO, CALIFORNIA 94103**

Upon the motion ("Motion")¹ of Gary S. Kibizoff, the debtor and debtor-in-possession in the above captioned case ("Debtor"), requesting entry of an order to Value Collateral, "Strip Off" and Modify the Rights of Secured Creditors for the Property Address located at 317 Harriet

¹ Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Motion.

Street, San Francisco, California 94103 (the “**Property**”) pursuant to 11 U.S.C. § 506(a) and § 1123; and due notice of the Motion and the hearing of the Motion having been given to all parties entitled thereto; and a hearing having been held before this Court on February 5, 2013, to consider approval of the Motion, at which time all parties in interest were afforded an opportunity to be heard; it is hereby:

ORDERED that the Motion is **GRANTED**; and it is further

ORDERED that the secured portions of the Lenders’ claims are reduced to the appraised value of the Property, pursuant to 11 U.S.C. § 506(a); and it is further

ORDERED that the unsecured portions of the Lenders’ claims are reduced and shall be treated as a “general unsecured claim”, pursuant to 11 U.S.C. § 506(a); and it is further

ORDERED that the secured and unsecured claims against the Property are bifurcated in accordance with the appraised value of the Property in the amount of \$750,000.00; and the creditors’ wholly unsecured claims shall be treated as a “general unsecured claim,” pursuant to 11 U.S.C. § 506(a), and the total amounts of the claims against the Property are:

a. First Lien – OneWest Bank, FSB. – Loan Number: *****1812

i. Secured Claim - \$750,000.00

ii. Unsecured Claim - \$288,008.70

b. Second Lien – Sunrise Assessment Svcs. – Loan Number: *****6983

i. Secured Claim - \$0.00

ii. Unsecured Claim - \$11,592.74

and it is further

1 **ORDERED** that Sunrise Assessment Svcs.'s secured second lien claim against the
2 Property is "Stripped Off" and shall be treated as a "general unsecured claim" pursuant to 11
3 U.S.C. § 506(a) upon effectuation of the Debtors' Chapter 11 Plan; and it is further
4

5 **ORDERED** that unsecured portion of the Lenders' claims be reclassified as a general
6 unsecured claims to be paid pro rata with other general unsecured creditors through the Debtor's
7 ultimate Chapter 11 plan; and it is further
8

9 **ORDERED** that the Lender's secured rights and/or lien-holder rights in the Property are
10 hereby modified as set forth above; and it is further
11

12 **ORDERED** nothing in this Order shall be construed as prejudicial to any party's right to
13 appraise the Property and submit its own valuation issues up to the disclosure statement/plan
14 confirmation process; and it is further
15

16 **ORDERED** that this Court retains jurisdiction to hear all matters relating to or arising
17 from the entry of this Order; and it is further
18

19 **ORDERED** that, as provided by Federal Rule of Bankruptcy Procedure 7062, this Order
20 shall be effective and enforceable immediately upon entry.
21

22
23 Submitted By:

24 THE SCHWARTZ LAW FIRM, INC.
25

26 /s/ Samuel A. Schwartz

27 Samuel A. Schwartz (NSB #10985)

28 Bryan A. Lindsey (NSB #10662)

29 Attorneys for the Debtor
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SUBMISSION TO COUNSEL FOR APPROVAL PURSUANT TO LR 9021

In accordance with LR 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

_____ The court has waived the requirement set forth in LR 9021(b)(1).

 X No party appeared at the hearing or filed an objection to the motion.

_____ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

_____ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of this order.

APPROVED:

DISAPPROVED:

FAILED TO RESPOND:

Submitted By:

THE SCHWARTZ LAW FIRM, INC.

/s/ Samuel A. Schwartz

Samuel A. Schwartz (NSB #10985)

Bryan A. Lindsey (NSB #10662)

Attorneys for the Debtor

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